

## SUGAR ACT AMENDMENTS OF 1971

SEPTEMBER 29, 1971.—Ordered to be printed

Mr. POAGE, from the committee of conference, submitted the following

### CONFERENCE REPORT

[To accompany H.R. 8866]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8866) to amend and extend the provisions of the Sugar Act of 1948, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *That this Act may be cited as the "Sugar Act Amendments of 1971"*.

SEC. 2. Section 101 of the Sugar Act of 1948, as amended, is amended—

(1) by striking out "the Virgin Islands," in subsection (j);

(2) by amending subsection (o) to read as follows:

"(o) The term 'continental United States' means the States (except Hawaii) and the District of Columbia."; and

(3) by adding at the end thereof the following new subsection:

"(p) The term 'mainland cane sugar area' means the States of Florida and Louisiana."

SEC. 3. Section 201 of the Sugar Act of 1948, as amended, is amended to read as follows:

#### "ANNUAL ESTIMATE OF CONSUMPTION IN CONTINENTAL UNITED STATES

"SEC. 201. (a) The Secretary shall determine for each calendar year, beginning with 1972, the amount of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective set forth in subsection (b). Such determination shall be made during October of the year preceding the calendar year for which the determination is being made and at such other times thereafter as may be required to attain such price objective.

"(b) The price objective referred to in subsection (a) is a price for raw sugar which would maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971, and (2) the simple average of such two indexes for the same period."

"(c) For purposes of subsection (b) —

"(1) The term 'parity index (1967=100)' means the Index of Prices Paid by Farmers for Commodities and Services, including Interest, Taxes, and Farm Wage Rates, as published monthly by the Department of Agriculture.

"(2) The term 'wholesale price index' means such index as determined monthly by the Department of Labor."

SEC. 4. (a) Section 202(a) of the Sugar Act of 1948, as amended, is amended to read as follows:

"(a)(1) For domestic sugar-producing areas, by apportioning among such areas 6,910,000 short tons, raw value, as follows:

Area	Short tons, raw value
Domestic beet sugar-----	3,406,000
Mainland cane sugar-----	1,539,000
Hawaii-----	1,110,000
Puerto Rico-----	855,000
Total-----	6,910,000

"(2) To or from the sum of 4,945,000 short tons, raw value, of the quotas for the domestic beet sugar and mainland cane sugar areas there shall be added or deducted, as the case may be, an amount equal to 65 per centum of the amount by which the Secretary's determination of requirements of consumers in the continental United States pursuant to section 201 for the calendar year is greater than or less than 11,200,000 short tons, raw value. Such amount shall be apportioned between the domestic beet sugar area and the mainland cane sugar area on the basis of the quotas for such areas established under paragraph (1) of this subsection in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971.

"(3) Notwithstanding the foregoing provisions of this subsection, whenever the production of sugar in Hawaii or Puerto Rico in any year results in there being available for marketing in the continental United States in any year sugar in excess of the quota for such area for such year established under paragraph (1) of this subsection, the quota for the immediately following year established for such area under such paragraph shall be increased to the extent of such excess production, except that in no event shall the quota for Hawaii or Puerto Rico, as so increased, exceed the quota which would have been established for such area at the same level needed to meet the requirements of consumers under the provisions of this subsection in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1962. Whenever sugar produced in Hawaii or Puerto Rico in any year is prevented from being marketed or brought into the continental United States in that year for reasons beyond the control of the producer or shipper of such sugar, the quota for the immediately following year established for such area under paragraph (1) of this subsection and the preceding sentence shall, within the limitations of the

preceding sentence and section 207, be increased by an amount equal to (A) the amount of sugar so prevented from being marketed or brought into the continental United States, reduced by (B) the amount of such sugar which has been sold to any other nation instead of being held for marketing in the continental United States.

"(4) Beginning with 1973 or as soon thereafter as the quota or quotas can be used, there shall be established for any new continental cane sugar producing area or areas a quota or quotas of not to exceed a total for all such areas of 100,000 short tons, raw value, subject to the requirements of section 302 of this Act."

(b) Section 202(b) of such Act is amended to read as follows:

"(b) For the Republic of the Philippines, in the amount of 1,126,020 short tons, raw value."

(c) Section 202(c) of such Act is amended—

(1) by striking out paragraph (2);

(2) by amending paragraph (3) to read as follows:

"(3) For individual foreign countries other than the Republic of the Philippines and Ireland, by prorating the amount of sugar determined under paragraph (1) of this subsection, less the amounts required to establish a quota as provided in paragraph (4) of this subsection for Ireland, among foreign countries on the following basis:

"(A) For countries in the Western Hemisphere:

"Country	Per centum
Cuba.....	23.74
Dominican Republic.....	12.80
Mexico.....	11.32
Brazil.....	11.04
Peru.....	7.90
West Indies.....	4.12
Ecuador.....	1.63
Argentina.....	1.53
Costa Rica.....	1.38
Colombia.....	1.36
Panama.....	1.29
Nicaragua.....	1.29
Venezuela.....	1.23
Guatemala.....	1.18
El Salvador.....	.86
British Honduras.....	.68
Haiti.....	.62
Bahamas.....	.54
Honduras.....	.24
Bolivia.....	.13
Paraguay.....	.13

"(B) For countries outside the Western Hemisphere:

"Country	Per centum
Australia.....	5.02
Republic of China.....	2.09
India.....	2.01
South Africa.....	1.42
Fiji.....	1.10
Mauritius.....	.74
Swaziland.....	.74
Thailand.....	.46
Southern Rhodesia.....	.37
Malawi.....	.37
Uganda.....	.37
Malagasy Republic.....	.30

"(C) Notwithstanding the provisions of subparagraphs (A) and (B), for the calendar year 1972 the proration for Panama shall be 0.85 per centum and for Malawi shall be zero per centum and the proration for the other countries named in subparagraphs (A) and (B) shall be increased proportionately."; and

(3) by amending paragraph (4) to read as follows:

"(4) For Ireland, in the amount of 5,351 short tons, raw value, of sugar. The quota provided by this paragraph shall apply for any calendar year only if the Secretary obtains such assurances from such country as he may deem appropriate prior to September 15 preceding such calendar year (October 31, 1971, for the calendar year 1972) that the quota for such year will be filled with sugar produced in such country."

(d) Section 202(d) of such Act is amended—

(1) by striking out "that are members of the Organization of American States" in paragraph (1)(A)(ii);

(2) by striking out "quotas then in effect for such countries" in paragraph (1)(B) and inserting in lieu thereof "percentages stated therein";

(3) by striking out "the Bahama Islands, Bolivia, Honduras, and" in paragraph (3);

(4) by striking out "August" and inserting in lieu thereof "June" in paragraph (4); and

(5) by striking out "1965" each place it appears in paragraph (6) and inserting in lieu thereof "1971".

(e) Section 202(e) of such Act is amended by inserting "or under section 408(c)" after "subsection (d)(1) of this section".

(f) Section 202(f) of such Act is amended to read as follows:

"(f) Whenever any quota is required to be reduced pursuant to subsection (e) or because of a reduction in the requirements of consumers under section 201 of this Act, and the amount of sugar imported from any country or marketed from any area at the time of such reduction exceeds the reduced quota, the amount of such excess shall, notwithstanding any other provision of this section, be charged to the quota established for such country or domestic area for the next succeeding calendar year. Sugar from any country which at the time of reduction in quota has not been imported but is covered by authorizations for importation issued by the Secretary not more than five days prior to the scheduled date of departure shown on the authorization shall be permitted to be entered and charged to the quota established for such country for the next succeeding calendar year."

(g) Section 202(g) of such Act is amended to read as follows:

"(g)(1) The Secretary is authorized to limit, on a quarterly basis only, the importation of sugar within the quota for any foreign country during the first quarter of 1972 if he determines that such limitation is necessary to achieve the objectives of the Act.

"(2) The Secretary is not authorized during the last three quarters of 1972 and the full year 1973, or in any year thereafter except as provided herein, to limit the importation of sugar within the quota for any foreign country through the use of limitations applied on other than a calendar year basis.

"(3) In order to attain on an annual average basis the price objective determined pursuant to the formula specified in section 201 of this Act, the Secretary shall make adjustments in the determination of requirements of consumers in accordance with the following provisions: (A) the determi-



nation of requirements of consumers shall not be adjusted whenever the simple average of the prices of raw sugar for seven consecutive market days is less than 4 per centum (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of the following year, 3 per centum) above or below the average price objective so determined for the preceding two calendar months; (B) the determination of requirements of consumers shall be adjusted to the extent necessary to attain such price objective whenever the simple average of prices of raw sugar for seven consecutive market days is 4 per centum or more (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of the following year, 3 per centum or more) above or below the average price objective so determined for the preceding two calendar months; and (C) the determination of requirements of consumers for the current year shall not be reduced after November 30 of such year, but any required reduction shall instead be made in such determination for the following year. If in the twelve-month period ending October 31 of any year after 1972 the average price of raw sugar is less than 99 per centum of the price objective determined pursuant to the formula set forth in section 201 (except in the twelve-month period ending October 31, 1973—97 per centum) then, with respect to each subsequent calendar year, the Secretary is authorized after November 30 of the preceding year to limit, on a quarterly basis only, the importation of sugar within the quota of any foreign country during the first or second quarter, or both, of such subsequent year if he determines that such limitation is necessary to achieve the objectives of the Act.

"(4) The Secretary is not authorized to issue any regulation under this Act restricting the importation, shipment, or storage of sugar to one or more particular geographical areas.

"(5) The imposition of limitations on a quarterly basis under this subsection shall not operate to reduce the quantity of sugar permitted to be imported for any calendar year from any country below its quota for that year."

SEC. 5. (a) Section 204(a) of the Sugar Act of 1948, as amended, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each sixty days after the beginning of each calendar year, determine whether, in view of the current inventories of sugar, the estimated production from the acreage of sugarcane or sugar beets planted, the normal marketings within a calendar year of new-crop sugar, and other pertinent factors, any area or country will not market the quota for such area or country.";

(2) by striking out "If" in the second sentence and inserting in lieu thereof "Whenever" and by striking out "will be unable to" in such sentence and inserting in lieu thereof "will not";

(3) by amending the first proviso in the second sentence to read as follows: "Provided, That any deficit resulting from the inability of a country which is a member of the Central American Common Market to fill its quota or its share of any deficit determined under the foregoing provisions of this subsection shall first be allocated to the other member countries on the basis of the quotas determined pursuant to section 202 for such countries.";

(4) by striking out "will be unable to" in the third, fifth, sixth, and eighth sentences and inserting in lieu thereof "will not";

(5) by striking out the tenth and eleventh sentences and inserting in lieu thereof the following: "In determining and allocating deficits the Secretary shall act to provide at all times throughout the calendar year the full distribution of the amount of sugar which he has determined to be needed under section 201 of this Act to meet the requirements of consumers.";

(6) by striking out "quotas then in effect" wherever it appears and inserting in lieu thereof "quotas determined pursuant to section 202"; and

(7) by striking out "47.22" wherever it appears and inserting in lieu thereof "30.08".

(b) Section 204 of the Sugar Act of 1948, as amended, is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the foregoing provisions of this section and section 211(c), if the Secretary determines that Hawaii or Puerto Rico will be unable to fill its quota established under section 203 for marketing for local consumption on a day-to-day basis, he shall allocate a total amount of sugar not in excess of such deficit to the domestic beet sugar area or the mainland cane sugar area, or both, to be filled by direct consumption or raw sugar, as he determines to be required for local consumption."

SEC. 6. Section 205(a) of the Sugar Act of 1948, as amended, is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary is authorized in making such allotments, whenever there is involved any allotment that pertains to a new or substantially enlarged existing sugar beet processing facility serving a locality or localities which have received an acreage allotment under section 302 (b)(3) or that pertains to a sugar beet processing facility described in section 302(b)(9), to take into consideration in lieu of or in addition to the foregoing factors of processing, past marketings and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for reasonably efficient operation of any such sugar beet processing facility during each of the first three years of its operation."

SEC. 7. Section 206 of the Sugar Act of 1948, as amended, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) If the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this Act, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in from any country or area to a quantity which he determines will not so interfere: Provided, That the quantity to be imported or brought in from any country or area in any calendar year shall not be reduced below the average of the quantities of such product, mixture, or beet sugar molasses annually imported or brought in during such three-year period as he may select for which reliable data of the importation or bringing in of such product, mixture, or beet sugar molasses are available.

"(b) In the event the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico, of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this Act and there are no reliable data available of such importation or bringing in of such product, mixture, or beet sugar molasses for three consecutive years, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in annually from any country or area to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of the Act. In the case of a sugar-containing product or mixture, such quantity from any one country or area shall not be less than a quantity containing one hundred short tons, raw value, of sugar or liquid sugar."; and

(2) by adding at the end thereof the following new subsection:

"(d) Notwithstanding the foregoing provisions of this section, the Secretary shall each year, beginning with the calendar year 1972, limit the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of part 10, schedule 1, of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption in the United States as hereinafter provided. The quantity which may be so entered or withdrawn during any calendar year shall be determined in the fourth quarter of the preceding calendar year and the total amount thereof shall be equivalent to the larger of (1) the average annual quantity of the products entered, or withdrawn from warehouse, for consumption under the foregoing items of the Tariff Schedules of the United States for the three calendar years immediately preceding the year in which such quantity is determined, or (2) a quantity equal to 5 per centum of the amount of sweetened chocolate and confectionery of the same description of United States manufacture sold in the United States during the most recent calendar year for which data are available. The total quantity to be imported under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the United States Department of Commerce as to the quantity of sweetened chocolate and confectionery of United States manufacture sold in the United States."

SEC. 8. Section 207 of the Sugar Act of 1948, as amended, is amended—

(1) by striking out "such year" in subsection (a) and inserting in lieu thereof "the preceding year";

(2) by amending subsection (b) to read as follows:

"(b) The quota for Puerto Rico established under section 202 for any calendar year may be filled by direct-consumption sugar not to exceed an amount equal to 1.5 per centum of the first eleven million short tons, raw value, of the Secretary's determination for the preceding year issued pursuant to section 201, plus 0.5 per centum of any amount of such determination above eleven million short tons, raw value, except that 126,033 short tons, raw value, of such direct-consumption sugar shall be principally of crystalline structure."; and

(3) by striking out subsection (c).

SEC. 9. Section 209(a) of the Sugar Act of 1948, as amended, is amended by striking out "from Hawaii, Puerto Rico, the Virgin Islands, or foreign countries," and inserting in lieu thereof "from any foreign country or any other area outside the continental United States".

SEC. 10. Section 211(a) of the Sugar Act of 1948, as amended, is amended by striking out "continental United States" and inserting in lieu thereof "United States, including Puerto Rico,".

SEC. 11. Section 212 of the Sugar Act of 1948, as amended, is amended by striking out "sugar or" in clauses (1) and (2) and inserting in lieu thereof "direct consumption sugar or".

SEC. 12. (a) Section 302(b) of the Sugar Act of 1948, as amended, is amended—

(1) by adding at the end of paragraph (1) the following: "In establishing proportionate shares for farms in the mainland cane sugar area, the Secretary may establish separate State acreage allocations, may determine and administer the proportionate shares for farms in one State by a method different from that used in another State, may include in such State allocation an acreage reserve to compensate for anticipated unused proportionate shares, may make conditional allocations to farms from such reserve and establish conditions which must be met in order for such allocations to be final, may make an adjustment in a State's allocation in any year to compensate for a deficit or surplus in a prior year if the actual amount of unused proportionate shares in such State for such prior year was larger or smaller than such anticipated amount of unused proportionate shares, and, in establishing State allocations and farm proportionate shares, may use whatever prior crop year or years he considers equitable in his consideration of past production.";

(2) by adding at the end of paragraph (2) the following: "The personal sugar beet production history of a farm operator who dies, or becomes incapacitated, shall accrue to the legal representative of his estate or to a member of his immediate family if such legal representative or family member continues within three years of such death or incapacity the customary sugar beet operations of the deceased or incapacitated operator. If in any year during this period sugar beets were not planted by such legal representative or member of the family, production history shall be credited to such year equal to the acreage last planted by the deceased or incapacitated farm operator.";

(3) by amending paragraph (3) to read as follows:

"(3) In order to make acreage available for growth and expansion of the beet sugar industry, the Secretary, in addition to protecting the interests of new and small producers by regulations generally similar to those heretofore promulgated by him pursuant to this Act, shall allocate as needed from the national sugar beet requirements established by him, during 1972, 1973, and 1974, the acreage required to yield not more than a total of 100,000 short tons, raw value, of sugar for localities to be served by new or substantially enlarged existing sugar beet processing facilities. Allocations shall be for a period of three years and limited for any one processing facility to the acreage required to yield a maximum of 50,000 short tons, raw value, of sugar and a minimum of 25,000 short tons, raw value, of sugar. The acreage so allocated shall be distributed on a fair and reasonable basis to new and old sugar beet farms to the extent that it can be utilized without regard to any other acreage allocations to States determined by the Secretary. At the time the Secretary allocates acreage for a new or substantially enlarged existing sugar beet processing facility for any year, which determination shall be made as far in advance of such year as practicable, such allocation shall thereby be committed to be in effect for the year in which production of sugar beets is scheduled to com-



mence or to be substantially increased in the locality or localities determined by the Secretary to receive such acreage allocation for such year, such determination by the Secretary shall be final, and such commitment of acreage allocation shall be irrevocable upon issuance of such determination of the Secretary by publication in the Federal Register; except that if the Secretary finds in any case that the construction of new or the substantial enlargement of existing sugar beet processing facilities and the contracting for processing of sugar beets has not proceeded in substantial accordance with the representations made to him as a basis for his determination of acreage allocation, he shall revoke such determination in accordance with and upon publication in the Federal Register of such findings. In determining acreage allocations for a locality or localities serving new or substantially enlarged existing sugar beet facilities and whenever proposals are made to construct new or to substantially enlarge existing sugar beet processing facilities in two or more localities (where sugar beet production is proposed to be commenced or to be substantially increased in the same year), the Secretary shall base his determination and selection upon the firmness of capital commitment, the proven suitability of the area for growing sugar beets and the relative qualifications of localities and proposals under such criteria. In making his determination under the preceding sentence, the Secretary shall give a preference to any processing facility located or to be located in or adjacent to growing areas where processing facilities were closed during 1970 or thereafter if he finds that sugar beets can and will be grown in sufficient quantity and quality to make the production of sugar beets and the operation of such facility successful. If proportionate shares are in effect in either of the two years immediately following the year for which such initial acreage allocation is made in any locality, the Secretary shall adjust the initial allocation in the same proportion as the State's acreage is adjusted from its acreage of the year in which such initial allocation was made.";

(4) by amending paragraph (4) to read as follows:

"(4) The allocation of the national sugar beet acreage requirement to States for sugar beet production, as well as the acreage allocation for new or substantially enlarged existing sugar beet processing facilities, shall be determined by the Secretary after investigation and notice and opportunity for an informal public hearing.";

(5) by striking out "in any local producing area" in paragraph (5);

(6) by amending paragraph (9) to read as follows:

"(9) The Secretary is authorized to reserve from the national sugar beet acreage requirements established by him for the 1972, 1973, and 1974 crops of sugar beets the acreage required to yield 25,000 short tons of sugar, raw value, for any sugar beet processing facility which closed during 1970, if he is satisfied that such facility will resume operations and will be operated successfully and that the area which will serve such facility is suitable for growing sugar beets. The Secretary shall allocate the acreage provided for in this paragraph to farms on such basis as he determines necessary to accomplish the purposes for which such acreage is provided under this paragraph."; and

(7) by adding at the end of such subsection a new paragraph as follows:

"(10) The Secretary shall credit to the farm of any producer (or to the producer in a personal history State) who has lost a market for sugar beets as a result of (A) the closing of a sugar beet factory in any year after 1970; (B) the complete discontinuance of contracting by a processor

after 1970 in a State; or (C) the discontinuance of contracting by a processor after 1970 in a substantial portion of a State in which the processor contracted a total of at least 2,000 acres of the 1970 crop of sugar beets, an acreage history (or production history) for each of the next three years equal to the average acreage planted on the farm (or by the producer) in the last three years of such factory's operation or processor's contracting, and any unused proportionate share shall not be transferred to other farms (or producers)."

(b) Section 302(c) of such Act is amended to read as follows:

"(c) In order to enable any new cane sugar producing area to fill the quota to be established for such area under section 202(a)(4), the Secretary shall allocate an acreage which he determines is necessary to enable the area to meet its quota and provide a normal carryover inventory. Such acreage shall be fairly and equitably distributed to farms on the basis of land, labor, and equipment available for the production of sugarcane, and the soil and other physical factors affecting the production of sugarcane. The acreage allocation for any year shall be made as far in advance of such year as practicable, and the commitment of such acreage to the area shall be irrevocable upon issuance of such determination by publication thereof in the Federal Register, except that, if the Secretary finds in any case that construction of sugarcane facilities and the contracting for processing of sugarcane has not proceeded in substantial accordance with the representation made to him as a basis for his determination of distribution of acreage, he shall revoke such determination in accordance with and upon publication in the Federal Register of such findings. In making his determination for the establishment of a quota and the allocation of the acreage required in connection with such quota, the Secretary shall base such determination upon the firmness of capital commitment and the suitability of the area for growing sugarcane and, where two or more areas are involved, the relative qualifications of such areas under such criteria. If proportionate shares are in effect in such area in the two years immediately following the year for which the sugarcane acreage allocation is committed for any area, the total acreage of proportionate shares established for farms in such area in each such two years, shall not be less than the larger of the acreage committed to such area or the acreage which the Secretary determines to be required to enable the area to fill its quota and provide for a normal carryover inventory."

SEC. 13. Section 303 of the Sugar Act of 1948, as amended, is amended by striking out "which cause such damage to all or a substantial part of the crop of sugar beets or sugarcane in the same factory district (as established by the Secretary), county, parish, municipality, or local producing areas;".

SEC. 14. Section 307 of the Sugar Act of 1948, as amended, is amended by striking out "Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "and Puerto Rico".

SEC. 15. Section 403 of the Sugar Act of 1948, as amended, is amended by adding at the end thereof a new subsection as follows:

"(c) Whenever the Secretary determines that such action is necessary to protect the interests of the United States, consumers of sugar, or the exporters or importers of sugar, he is authorized to require, in accordance with such rules and regulations as he may prescribe, any or all shipments of imported sugar to be weighed by persons not controlled, directly or indirectly, by any person having a direct financial interest in such sugar."

SEC. 16. Section 404 of the Sugar Act of 1948, as amended, is amended by inserting before the period at the end of the first sentence the following:

"and, except as provided in sections 205 and 306, to review any regulation issued pursuant to this Act in accordance with chapter 7 of title 5, United States Code".

SEC. 17. Section 408(c) of the Sugar Act of 1948, as amended, is amended to read as follows:

"(c) In any case in which a nation or a political subdivision thereof has, on or after January 1, 1961, (1) nationalized, expropriated, or otherwise seized the ownership or control of the property or business enterprise owned or controlled by United States citizens or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or (2) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this Act) not imposed or enforced with respect to the property or business enterprise of a like nature owned or operated by its own nationals or the nationals of any government other than the Government of the United States, or (3) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this Act), or has taken other actions, which have the effect of nationalizing, expropriating or otherwise seizing ownership or control of such property or business enterprise, or (4) violated the provisions of any bilateral or multilateral international agreement to which the United States is a party, designed to protect such property or business enterprise so owned or controlled, and has failed within six months following the taking of action in any of the above categories to take appropriate and adequate steps to remedy such situation and to discharge its obligations under international law toward such citizen or entity, including the prompt payment to the owner or owners of such property or business enterprise so nationalized, expropriated or otherwise seized or to provide relief from such taxes, exactions, conditions or breaches of such international agreements, as the case may be, or to arrange, with the agreement of the parties concerned, for submitting the question in dispute to arbitration or conciliation in accordance with procedures under which final and binding decision or settlement will be reached and full payment or arrangements with the owners for such payment made within twelve months following such submission, the President may withhold or suspend all or any part of the quota under this Act of such nation, and either in addition or as an alternative, the President may, under such terms and conditions as he may prescribe, cause to be levied and collected at the port of entry an impost on any or all sugar sought to be imported into the United States from such nation in an amount not to exceed \$20 per ton, such moneys to be covered into the Treasury of the United States into a special trust fund, and he shall use such fund to make payment of claims arising on or after January 1, 1961, as a result of such nationalization, expropriation, or other type seizure or action set forth herein, except that if such nation participates in the quota for the West Indies, the President may suspend a portion of the quota for the West Indies which is not in excess of the quantity imported from that nation during the preceding year, until he is satisfied that appropriate steps are being taken, and either in addition or as an alternative

he may cause to be levied and collected an impost in an amount not to exceed \$20 per ton on any or all sugar sought to be imported into the United States from such nation for the payment of claims as provided herein. Any quantity so withheld or suspended shall be allocated under section 202 (d) (1) (B) of this Act. With respect to any action taken during 1961 in any of the categories set forth in this subsection, the provisions of this subsection relating to levying and collecting an impost shall apply only if the President so determines."

SEC. 18. (a) Section 412 of the Sugar Act of 1948, as amended, is amended to read as follows:

"TERMINATION

"SEC. 412. The powers vested in the Secretary under this Act shall terminate on December 31, 1974, or on March 31 of the year of termination of the tax imposed by section 4501(a) of the Internal Revenue Code of 1954, whichever is the earlier date, except that the Secretary shall have power to make payments under title III—

"(1) under programs applicable to the crop year 1974 and previous crop years, if the powers vested in the Secretary otherwise terminate on December 31, 1974, or

"(2) under programs applicable to the crop years preceding the calendar year in which the tax imposed under section 4501(a) of the Internal Revenue Code of 1954 terminates, if the powers vested in the Secretary otherwise terminate before December 31, 1974."

(b) Section 4501(b) of the Internal Revenue Code of 1954 (relating to termination of tax on manufactured sugar) is amended by striking out "June 30, 1972" each place it appears therein and inserting in lieu thereof "June 30, 1975, or June 30 of the first year commencing after the effective date of any law limiting payments under title III of the Sugar Act of 1948, as amended, whichever is the earlier date".

SEC. 19. The provisions of this Act shall become effective on January 1, 1972, except that the amendments made by sections 3, 4, 5, and 7(2) of this Act shall become effective on the date of enactment of this Act for purposes of actions relating to 1972 and subsequent years.

And the Senate agree to the same.

W. R. POAGE,  
T. G. ABERNETHY,  
THOMAS S. FOLEY,  
PAGE BELCHER,  
CHARLES M. TEAGUE,

*Managers on the Part of the House.*

RUSSELL B. LONG,  
CLINTON P. ANDERSON,  
HERMAN E. TALMADGE,  
WALLACE F. BENNETT,  
CARL T. CURTIS,

*Managers on the Part of the Senate.*



## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8866) to amend and extend the provisions of the Sugar Act of 1948, as amended, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to H.R. 8866 struck out all after the enacting clause and inserted in lieu thereof the Senate language.

The conference agreement is a substitute for both the House language and the Senate amendment. The important differences between H.R. 8866 and the Senate amendment and the resolution of these differences by the conferees follow:

### I. ALLOCATION OF DOMESTIC QUOTAS

The pattern of distribution of quotas to domestic areas was identical in both the House and Senate versions, except for 1974, when the House would have increased the Puerto Rican quota to 1 million tons, while the Senate retained it at 855,000. The conference substitute adopted the Senate version, thus making a domestic quota allocation as follows:

[Short tons, raw value]		Conference substitute
Area:		
Domestic beet sugar	-----	3,406,000
Mainland cane sugar	-----	1,539,000
Hawaii	-----	1,110,000
Puerto Rico	-----	855,000
Virgin Islands	-----	0
Total	-----	6,910,000

### II. ALLOCATION OF FOREIGN QUOTAS

The following table shows the individual country quotas under the conference substitute:

## FOREIGN SUGAR QUOTAS UNDER CONFERENCE DECISIONS, COMPARED TO HOUSE AND SENATE VERSIONS OF H.R. 8866

[Short tons, raw value]

Producing area	Present act distribution <sup>1</sup>	House bill <sup>2</sup>	Senate bill <sup>3</sup>	Conference substitute <sup>3</sup>
Total domestic areas.....	6,410,000	6,410,000	6,285,000	6,285,000
Mexico.....	557,748	537,545	590,894	561,581
Dominican Republic.....	545,481	525,737	659,874	634,874
Brazil.....	545,581	525,737	577,905	547,905
Peru.....	435,087	418,982	391,839	391,839
West Indies.....	188,777	192,251	204,520	204,520
Ecuador.....	79,370	80,774	79,084	80,774
French West Indies.....	59,384	0	63,868	0
Argentina.....	67,102	76,050	67,062	76,050
Costa Rica.....	64,217	65,185	71,110	68,610
Nicaragua.....	64,217	65,185	64,217	64,217
Colombia.....	57,723	73,688	61,047	67,368
Guatemala.....	54,115	55,265	59,835	58,350
Panama <sup>2</sup> .....	40,406	41,567	40,406	41,567
El Salvador.....	39,682	40,151	43,964	42,693
Haiti.....	30,305	30,704	30,305	30,704
Venezuela.....	27,419	36,845	61,025	61,026
British Honduras.....	13,752	33,537	14,874	33,537
Bolivia.....	6,494	17,005	6,193	6,193
Honduras.....	6,494	17,005	6,494	11,750
Bahamas.....	10,000	33,537	10,000	27,000
Paraguay.....	0	15,116	0	6,193
Western Hemisphere.....	2,893,254	2,881,866	3,104,517	3,016,751
Australia.....	203,785	206,025	196,162	203,785
Republic of China.....	84,910	85,844	81,734	84,910
India.....	81,514	82,494	77,973	81,514
South Africa.....	60,003	60,300	57,745	57,745
Fiji Islands.....	44,719	44,806	43,034	44,719
Thailand.....	18,681	18,844	14,152	18,681
Mauritius.....	18,681	30,150	17,761	30,150
Malagasy Republic.....	9,623	15,075	9,223	12,149
Swaziland.....	7,359	30,150	7,084	30,150
Malawi <sup>2</sup> .....	0	0	0	0
Uganda.....	0	15,075	0	15,075
Eastern Hemisphere.....	529,275	588,763	504,868	578,878
Philippines.....	1,362,120	1,314,020	1,300,264	1,314,020
Ireland.....	5,351	5,351	5,351	5,351
Total Foreign.....	4,790,000	4,790,000	4,915,000	4,915,000
Total.....	11,200,000	11,200,000	11,200,000	11,200,000

<sup>1</sup> Distribution of foreign quotas under present act as recommended to the Senate Finance Committee by the administration.

<sup>2</sup> For 1973 and subsequent years the quota for Panama would be increased to 62,947 tons and a quota would be established for Malawi of 15,000 tons and other quotas reduced proportionately.

Reflects the allocation and proration of 500,000 tons of domestic deficits to foreign countries.

<sup>3</sup> Reflects the allocation and proration of 625,000 tons of domestic deficits to foreign countries.

The quotas under the conference substitute, as indicated by the foregoing table, are based on estimates of sugar consumption of 11.2 million tons. These quotas further assume that Puerto Rico will fail to produce its quota allotment by 625,000 tons and that this deficit would be prorated among the Philippines and Western Hemisphere nations according to the formula specified in the conference agreement.

## OTHER SIGNIFICANT DIFFERENCES IN FOREIGN QUOTA ALLOCATIONS

*Panama:* Under the House bill the quota for Panama would be increased to 62,947 tons beginning in 1973. The Senate amendment did not provide this statutory increase. The conferees agreed to the House version.

*Malawi, Uganda, and Paraguay:* The House bill established a 15,000 ton quota for Malawi beginning in 1973, a 15,075 ton quota for Uganda in 1972, and a 15,116 ton quota for Paraguay in 1972. The

Senate amendment provided no quotas for these countries. The conference substitute adopts the House provision for Malawi and Uganda and sets the Paraguay quota at 6,193 tons.

*Bahamas:* The House bill added the Bahamas to the list of countries sharing quotas (and deficits and growth) on a percentage basis and increased its quota from 10,000 tons to 33,537 tons. The Senate amendment retained existing provisions of law and continued the constant 10,000 ton quota on the Bahamas. The conference substitute sets the quota at 27,000 tons and permits the Bahamas to share in future deficits and growth as provided in the House bill.

*Philippines:* Under the House bill which based calculations on a 500,000 ton domestic deficit the Philippine quota was set at 1,314,020 tons. Under the Senate amendment which was calculated on the basis of a 625,000 ton domestic deficit this quota was set at 1,300,264 tons. Using the same basis for calculation as the Senate amendment the House bill would have provided a Philippine quota of 1,361,020 tons. The conference substitute adopts the House bill's basic quota of 1,126,020 tons for the Philippines and sets that nation's share of the deficit at a level (30.08 percent) that will give the Philippines a quota of 1,314,020 tons, the amount originally proposed under the House calculations.

*French West Indies:* The House bill eliminated the quota for the French West Indies. The Senate bill would have restored the quota to the French West Indies but also would have assessed a fee against so much of the sugar imported from the French West Indies as would be equal to the amount by which the French West Indies fails to fill its share of the French EEC quota, the fee being an amount equal to the U.S. premium. The conference substitute eliminates the quota for the French West Indies.

### III. PRICE FORMULA AND CONSUMPTION ESTIMATE

The Senate amendment accepted the principle of the "corridor mechanism" for determining quota adjustments, as adopted by the House, with the following changes:

(A) Reduced from 4 percent to 3 percent the ranges within which prices could fluctuate before the Secretary must change his consumption estimate.

(B) Omitted the subjective criteria which would have been overridden (but retained in the law) by the price formula in the House bill.

(C) Clarified the price objective formula in the House bill by referring to the "farm prices paid index (1967 = 100)" instead of the "parity index."

In regard to these changes, the conference substitute provides as follows:

(A) It retains the 4 percent corridor mechanism of the House bill for 8 months of the year, but for the 4-month period (November, December, January, and February) it adopts the Senate 3 percent provision. The reason for this change is to afford mainland cane producers greater price protection during their principal harvesting months.

(B) The conferees adopted the Senate version which deleted the subjective criteria from existing law.

(C) The conference substitute uses the term "parity index (1967=100)" and clarifies it by reference to the specific statistic which is published monthly by the U.S. Department of Agriculture.

#### IV. PUERTO RICO

The Senate amendment modified the House provisions on Puerto Rico as follows:

(A) The Senate amendment retained Puerto Rico's quota at 855,000 tons for 3 years instead of raising it to 1,000,000 tons in 1974 as provided by the House bill. The conferees agreed to the Senate versions but agree that in 1974, when this legislation expires, the Congress should carefully examine the Puerto Rican quota. The conferees further note that present law (Section 202(a)(3) of the Sugar Act as amended by this bill) provides that when the productive capacity in Puerto Rico increases, the marketing quota shall increase to a quantity no higher than the quota in effect prior to the 1962 amendments to the Act, an amount which is well in excess of the 1 million tons proposed in the House bill.

(B) The House bill further restricted sugar imports from Puerto Rico when the Secretary's consumption estimate exceeds 11 million tons to 0.5 percent of the excess consumption estimate. The Senate amendment preserved existing law on refined sugar, allowing Puerto Rico to ship refined sugar within its quota up to an amount equal to 1.5 percent of the Secretary's consumption estimates. The conference substitute adopts the House provision.

#### V. ALLOCATION OF DEFICITS

There were two differences in the allocation of deficits:

##### (A) *Discretionary allocation of deficits*

The Senate amendment eliminated the President's authority in present law to distribute deficits in a discretionary manner, when in his judgment such a distribution would be in the "national interest." The House bill retained the present law provision. The conferees agreed to the House version.

The conferees note that under the proposal of the Administration to follow the quota structure of present law with minimal change, the Philippines would have received a quota of 1,362,120 tons. In retaining the President's authority to allocate deficits under section 204(a) of the Sugar Act, the conferees point out that he will have the authority to allocate additional portions of deficits to the Philippines if he determines that such action would be equitable and in the national interest.

The conferees were advised that on August 12, 1971, the Department of Agriculture issued an emergency request for 100,000 tons of sugar, 87,000 tons of which would come from foreign countries. This emergency request was rescinded on August 18, but in the interval, three Central American countries, Costa Rica, Guatemala, and Honduras, chartered the necessary vessels, incurred great expense and effort, and planned to ship raw sugar to the United States. Because the quota for these nations for 1971 had already been filled, the effect of the emergency order has been to cause financial hardship to these nations solely because of their prompt response to the Department's emergency request. It is the intention of the conferees that in exercising his discretion to allocate deficits in sugar shipments from any nation if he



finds it to be in the national interest, the President should make allocations to these countries out of forthcoming deficits (either in 1971 or in 1972) in an amount sufficient to relieve the hardship.

*(B) Allocation of deficits—Time element*

The Senate concurred in the House provision on requiring the Secretary to determine and allocate deficits in October of the preceding year and at least every 60 days after the beginning of a quota year, but included an amendment requiring a review on December 15 preceding the beginning of the quota year. The conferees agreed to the Senate version.

## VI. CUBAN RESERVE

The House bill reduced the Cuban reserve by more than half, from 50 percent to 23.74 percent, thus reallocating 761,861 tons permanently to other foreign nations (except the Philippines or Ireland). The Senate amendment preserved the Cuban reserve at 50 percent of imported sugar from foreign countries (except the Philippines, Ireland, and the Bahamas) as in current law. The conferees agreed to the House version.

## VII. ORGANIZATION OF AMERICAN STATES

The House bill repealed the so-called "OAS Bonus" clause, which reserves all growth in the Cuban reserve to countries in the Western Hemisphere which are members of the Organization of American States, and allocated future growth in the Cuban reserve to all countries in both hemispheres. The Senate amendment differed in that it distributed increases in the Cuban reserve, stemming from requirements in excess of 10 million tons, to all supplying countries in the Western Hemisphere (other than the Bahamas). Under present law, only those nations which are members of the Organization of American States participate. The conference substitute adopts the Senate provision adding the Bahamas to the list of nations which are permitted to participate in the Cuban reserve.

## VIII. MAXIMUM LIMITATION

The House bill contained no limitations or ceilings on foreign country quota allocations. The Senate amendment provided a maximum limitation on quotas of 1.5 million tons to the Philippines and Cuba (in the event Cuba rejoins the free nations of the world and regains its quota) and 800,000 tons on all other nations. The limitation would not have applied to sugar acquired pursuant to the discretionary authority of the Secretary enabling him to secure sugar from whatever source is available in times of emergency. Under the Senate provision, in the event a country's entitlement exceeded its maximum limitation, the excess would have been considered a deficit and would have been allocated in the same manner as deficits are allocated under the law. The conferees agreed to the House version, but point out that in the future the United States does not intend to become overly dependent on any one source of supply for sugar. In this regard, future sugar legislation might contain a statutory ceiling similar to that proposed in the Senate amendment.

## IX. CONFECTIONERY QUOTA

The House bill contained no quota provision on confections. The Senate amendment provided for a quota on confections beginning in 1972 equal to the larger of (1) the average total quantity of sweetened chocolate and confections in tariff classifications affected which are entered in the 3 prior years, or (2) 5 percent of the total amount of sweetened chocolate and confections in tariff classifications affected which are sold in the United States during the most recent year for which reliable data are available. The conferees agreed to the Senate version, but determined that the quotas should apply on an overall quantity basis and not to articles entered under each tariff classification specified. Moreover, the conferees noted that this quota will be in effect only for the period of this extension of the Sugar Act.

## X. NEW AND ESTABLISHED BEET AREAS

(A) The House bill authorized acreage to produce up to 100,000 tons of beet sugar to be set aside from the area's quota for localities with new facilities or enlarged plants. The Senate adopted a clarifying amendment making it clear that the 100,000 ton allocation pertained to the life of the extension of the Act and not to successive increases of 100,000 tons in each of 3 years during the extension. The conferees agreed to the Senate version.

(B) The Senate amendment also gave the Secretary discretionary authority to allocate up to 25,000 tons in addition to the 100,000 tons otherwise earmarked for new areas to a Maine factory, but *only* if he were satisfied that the venture could be successful and that sugar beets could be profitably grown. There was no comparable provision in the House bill. The conferees agreed to the Senate version.

(C) The House bill provided that "priority shall be given" to facilities closed since 1970 in making the determination of who receives the additional acreage allotments. The Senate amendment deleted this provision. Both versions provided that the determination should be based in part on "the proven suitability of the areas for growing sugar beets \* \* \*." The conference substitute deletes the priority language of the House bill, but replaces it with language giving a preference to any facility located or to be located in or adjacent to growing facilities which were closed during 1970 or thereafter when the Secretary finds that sugar beets can and will be grown in sufficient quantity and quality to make the operation of such facility successful.

## XI. SUGAR BEET FARM HISTORY

The House bill protected for 3 years the history of a producer in a portion of a State where a processor had contracted 4,000 acres of the 1970 crop. The Senate amendment reduced the 4,000 acre test to a 2,000 acre test to safeguard the production rights of producers in smaller locations. The conferees agreed to the Senate version.

## XII. PROPORTIONATE SHARES IN MAINLAND CANE AREA

The House bill made no change in present law which provides that the Secretary shall administer proportionate shares in the mainland cane area uniformly in Florida and Louisiana. The Senate amendment authorized the Secretary to administer proportionate shares in the

mainland cane area differently in Florida and Louisiana. The conferees agreed to the Senate version.

### XIII. INDEPENDENT WEIGHMASTERS

The House bill contained no provision on independent weighmasters. The Senate amendment would have allowed the present dependent weighmasters to continue to serve the people they are now serving but would require, with that exception, that in the future weighmasters not be associated with brokers or refiners of sugar. The conference substitute authorizes the Secretary to issue appropriate regulations regarding the weighing of sugar to insure program integrity and public protection if he deems such action necessary.

### XIV. PAYMENTS CUTOFF PROVISIONS

The House bill provided that in the event of any limitation on payments, both the powers of the Secretary under the Sugar Act and the sugar excise tax would terminate. The Senate amendment clarified the House bill to provide that payments would be made with respect to the crop year immediately preceding the year of termination of the tax, but not for the year in which the termination of the tax occurs. The conferees agreed to the Senate version.

### XV. EFFECTIVE DATES

The House bill provided effective dates for various provisions of the bill. The Senate amendment was identical in substance except with regard to the expropriation amendment. The conferees agreed to the House version with a technical clarifying amendment relating to the confectionery quota.

### XVI. EXPROPRIATION

The House bill made the mandatory provision in present law discretionary with the President. It would also allow him to suspend part of a quota rather than all of it and would make clear that limiting participation of a U.S. citizen in the production or sale of sugar to the United States under a quota allocation is a restrictive condition sufficient to invoke the statute. The House bill also contained authority for the President at his discretion, either in addition or as an alternative to cutting the quota, to levy a special tax (up to \$20 per ton) on any or all sugar from the offending country, the proceeds of which would be used to reimburse persons whose property was expropriated.

The Senate amendment adopted a number of changes in the House provision on expropriation and limited its application to past actions. In addition, the Senate amendment proposed for the future a new, more automatic, anticonfiscation provision. Under this new procedure, an aggrieved party, after failing to receive adequate compensation under provisions similar to existing law, could appeal to the U.S. Tariff Commission which, after a full investigation, would reach a determination on the questions of seizure and adequate compensation within a 6-month period.

The conference substitute adopted the House version with the following changes:

(A) Expropriations occurring on or after January 1961 would be eligible for relief through Presidential action.

(B) The \$20 per ton impost limitation is specifically made applicable to the West Indies as well as other nations.

In agreeing to the expropriation provisions, the conferees take note of certain claims by American business against foreign governments which have not been settled. Some of these involve companies which have been expropriated. Others involve companies which have satisfactorily performed contract work and have not been paid. The conferees wish to make their intention clear and unmistakable that these claims must be satisfactorily settled with expedition. The Congress is mindful of the fact that this is a 3-year extension of the Sugar Act. Sugar-supplying countries are therefore put on notice now that their record of settlement of outstanding claims by U.S. citizens will be a factor in future Congressional determinations of quotas.

### XVII. WAGE-PRICE FREEZE AND THE SUGAR ACT

On August 15 the President issued Executive Order 11615 imposing a freeze on wages and prices. The purpose of this Executive Order is to limit prices for commodities to the highest price for which sales of the commodity were made during the 30-day period preceding the Executive Order. The Sugar Act, too, is a price control mechanism. Its purpose is to stabilize prices of sugar in the interest of consumers, farmers, and processors.

It has come to the attention of the conferees that administration of the President's Executive Order may have the effect of disrupting the orderly operation of the Sugar Act by establishing different price ceilings for different processors of raw sugar solely on the basis of when sugar cane is harvested, processed, and marketed as raw sugar. This disruption could lead to inequities among processors and to unjust enrichment of refiners who purchase raw sugar from mainland raw sugar processors frozen to price structures which existed under the Sugar Act in the spring of 1971 or the fall of 1970 when these last sold raw sugar.

It is the feeling of the conferees that if Executive Order 11615 and the Sugar Act can be construed together to eliminate inequities and unjust enrichments, such a construction would be in order. The conferees are further of the opinion that if the raw sugar price ceiling were frozen in all cases at the price at which raw sugar was sold during the 30-day period preceding the issuance of Executive Order 11615, it would facilitate the administration of the Sugar Act and the achievement of the price objective stated therein.

W. R. POAGE,  
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